

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION

2:13-CR-26-1H
2:16-CV-83-H

NICKO RONDAY SMITH,)	
)	
Petitioner,)	
)	
v.)	ORDER
)	
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

This matter is before the court on petitioner's motion for reconsideration pursuant to Fed. R. Civ. P. 59 and 60(d)(1)and(2), [DE #100], asking this court to reconsider its order and judgment, [DE #98 and #99], dismissing petitioner's motion to vacate pursuant to 28 U.S.C. § 2255 on January 17, 2018, and also asking this court to allow supplemental briefing on issues addressed in the motion to reconsider. Petitioner also filed a motion to supplement his motion for reconsideration, [DE #105]. Also before the court are two motions by petitioner to supplement his "pending" § 2255, [DE #101 and DE #102]. The court considers all of petitioner's filings as a motion to reconsider.

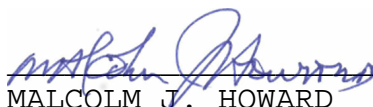
Courts have generally recognized three grounds for altering or amending judgments under Federal Rule of Civil Procedure 59(e). See Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993).

Specifically, courts will alter or amend "an earlier judgment: (1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice." Id. (citing Weyerhaeuser Corp. v. Koppers Co., 771 F.Supp. 1406, 1419 (D. Md. 1991) and Atkins v. Marathon LeTourneau Co., 130 F.R.D. 625, 626 (S.D. Miss. 1990)).

The court, having reviewed petitioner's motion as well as the record in this matter, finds no reason to alter or amend its judgment under Rule 59(e). Further, petitioner has not shown any basis for relief under Federal Rule of Civil Procedure 60(d). Therefore, petitioner's motion for reconsideration [DE #100, #101, #102, #105] is DENIED.

Further, petitioner asks this court to grant a certificate of appealability. The court finds no reason to alter its prior order denying a certificate of appealability.

This 20th day of April 2020.



MALCOLM J. HOWARD
Senior United States District Judge

At Greenville, NC
#35